

HONORABLE RICHARD A. JONES

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

RODERICK DEMMINGS,

Plaintiff,

v.

PACIFIC MARITIME
ASSOCIATION, ILWU LOCAL 19,
JOHN DOES 1-100,

Defendants.

CASE NO. C11-1864 RAJ

ORDER

This matter comes before the court on defendant Pacific Maritime Association's ("PMA") motion to clarify or revise the court's order or, in the alternative, to dismiss plaintiff's ADA claim under rule 12(c) or 56. Dkt. # 92. On September 26, 2012, the court granted defendants' 12(b)(6) motions to dismiss *pro se* plaintiff Roderick Demmings' claims for breach of duty of fair representation, breach of contract, discrimination and retaliation on the basis of race and disability under Title VII and the WLAD related to his deregistration and request for accommodation, and under section 1983. Dkt. # 40. Defendants did not move the court to dismiss his cause of action under the Americans with Disabilities Act ("ADA"), accordingly, the court did not address the

1 ADA claim in the September 26, 2012 order. *See* Dkt. ## 13, 18. Accordingly,
2 clarification or revision of that order is not warranted.

3 Nevertheless, PMA requests, in the alternative, for the court to dismiss plaintiff's
4 ADA claim under Rule 12(c) or Rule 56. Dkt. # 92. Plaintiff has not filed an opposition,
5 but has moved the court to strike the motion on the grounds that it "violates the local
6 federal rules, particularly CR 7 and its subparts." Dkt. # 93. PMA has already filed a
7 motion for summary judgment, and this District does not allow contemporaneous
8 dispositive motions, each one directed toward a discrete issue or claim, without leave of
9 court. Local Rules W.D. Wash. ("LR") 7(e)(3).

10 Under Rule 12(c), after the pleadings are closed, but early enough not to delay
11 trial, a party may move for judgment on the pleadings. Fed. R. Civ. Proc. 12(c).
12 Judgment on the pleadings is properly granted when, accepting all factual allegations in
13 the complaint as true, there is no issue of material fact in dispute, and the moving party is
14 entitled to judgment as a matter of law. *Chavez v. U.S.*, 683 F.3d 1102, 1108 (9th Cir.
15 2012). Analysis under Rule 12(c) is "substantially identical" to analysis under Rule
16 12(b)(6) because, under both rules, a court must determine whether the facts alleged in
17 the complaint, taken as true, entitle plaintiff to a legal remedy. *Id.*

18 Strictly speaking, plaintiff has not alleged an ADA claim by name. *See* Dkt. # 5
19 (FAC). However, construed liberally, plaintiff appears to allege a claim for disability
20 discrimination under federal law, which is available pursuant to the ADA. *Id.* ¶ 39. The
21 federal disability discrimination claim arises out of the same facts as the Title VII and the
22 Washington Law Against Discrimination ("WLAD") claims related to his deregistration
23 and request for accommodation. However, the court dismissed plaintiff's Title VII and
24 WLAD claims as time-barred based on the statute of limitations and procedural
25 requirements of Title VII and the WLAD. PMA has not adequately briefed whether the
26 same procedural requirements and statute of limitations apply under the ADA.

1 For all the foregoing reasons, the court DENIES PMA's Rule 12(c) motion
2 without prejudice. In the interests of justice and streamlining the issues for trial, the court
3 will allow defendants to file a renewed Rule 12(c) motion within thirty days of this order.
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5 Dated this 12th day of June, 2013.

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8 The Honorable Richard A. Jones
9 United States District Judge
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